

University of California, Hastings College of the Law UC Hastings Scholarship Repository

Initiatives

California Ballot Propositions and Initiatives

5-14-2010

REPEALS ENVIRONMENTAL PROTECTION LAWS AND ESTABLISHES NEW INALIENABLE RIGHTS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_inits

Recommended Citation

REPEALS ENVIRONMENTAL PROTECTION LAWS AND ESTABLISHES NEW INALIENABLE RIGHTS. INITIATIVE
CONSTITUTIONAL AMENDMENT AND STATUTE. California Initiative 1469 (2010).
http://repository.uchastings.edu/ca_ballot_inits/1669

This Initiative is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Initiatives by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS


1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

November 16, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10321

TO: All County Clerks/Registrars of Voters and Proponent

FROM:


Katherine Montgomery
Initiative Program Manager

RE: Initiative: Failure of #1469, Related to Environmental Protection Laws

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures for the hereinafter named initiative constitutional amendment and statute filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: REPEALS ENVIRONMENTAL PROTECTION LAWS AND
ESTABLISHES NEW INALIENABLE RIGHTS. INITIATIVE
CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY DATE: May 17, 2010

PROPONENT: Oscar A. Braun



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

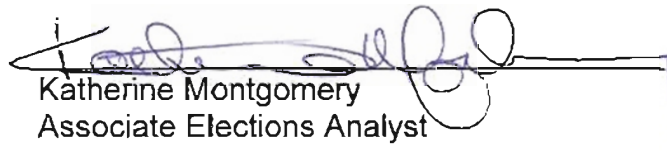
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

May 17, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10163

TO: All County Clerks/Registrars of Voters and Proponent

FROM:


Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1469, Related to Environmental Protection Laws

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**REPEALS ENVIRONMENTAL PROTECTION
LAWS AND ESTABLISHES NEW INALIENABLE RIGHTS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

The proponent of the above-named measure is:

Oscar A. Braun
1589 Higgins Canyon Road
Half Moon Bay, California 94019

(650) 867-5779

**REPEALS ENVIRONMENTAL PROTECTION
LAWS AND ESTABLISHES NEW INALIENABLE RIGHTS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required:694,354
California Constitution, Article II, Section 8(b)
2. Official Summary Date:Friday, 05/14/10
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elec. Code § 336) Friday, 05/14/10
 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elec. Codes §§ 336, 9030(a))Tuesday, 10/12/10*
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elec. Code § 9030(b))Friday, 10/22/10

(If the Proponent files the petition with the county on a date prior to
10/12/10, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties.....Sunday, 10/31/10**
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(Elec. Code § 9030(d)(e))Wednesday, 12/15/10

* Date adjusted for official deadline, which falls on a holiday (Elec. Code § 15).

** Date varies based on the date of county receipt.

INITIATIVE #1469

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 10/31/10, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (Elec. Code §§ 9030(f)(g), 9031(a))Saturday, 12/25/10*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)).Monday, 02/07/11

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 12/25/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033)Friday, 02/11/11*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

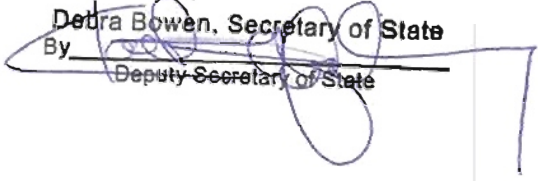
Public: (916) 445-9555
Telephone: (916) 445-4752
Facsimile: (916) 324-8835
E-Mail: Krystal.Paris@doj.ca.gov

May 14, 2010

FILED
In the office of the Secretary of State
of the State of California

MAY 14 2010

Honorable Debra Bowen
Secretary of State of the State of California
State of California Elections
1500 11th Street, 5th Floor
Sacramento, CA 95814

Debra Bowen, Secretary of State
By 
Deputy Secretary of State

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code, section 9004, you are hereby notified that on this day we sent our title and summary for the following proposed initiatives to the respective proponents:

- 10-0015, "California Democracy Act"
- 10-0016, "Unalienable Rights"

A copy of the title and summary and text of each proposed initiative is enclosed. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Krystal M. Paris".

KRYSTAL M. PARIS
Initiative Coordinator

For EDMUND G. BROWN JR.
Attorney General

10-0015, 10-0016

May 14, 2010

Page 2

Proponent (10-0015):

Professor George Lakoff

1435 Euclid Ave.

Berkeley, CA 94708

Proponent (10-0016):

Oscar A. Braun

Executive Director, California Watershed Posse

1589 Higgins Canyon Road

Half Moon Bay, CA 94019

May 14, 2010
Initiative 10-0016

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**REPEALS ENVIRONMENTAL PROTECTION LAWS AND ESTABLISHES NEW
INALIENABLE RIGHTS. INITIATIVE CONSTITUTIONAL AMENDMENT AND**

STATUTE. Repeals the California Environmental Quality Act, the California Coastal Act, the California Endangered Species Act, and the California Global Warming Solutions Act.

Establishes new inalienable rights to produce, use, and consume air, carbon dioxide, water, habitat for humanity and energy generating natural resources. Grants the people of California the right to nullify all federal powers not delegated to the United States by the federal

constitution. Fiscal impact: **It is the opinion of the Legislative Analyst and Director of Finance that the measure likely would result in a substantial net change in state or local finances if adopted. (10-0016.)**

MAR 26 2010

March 22, 2010

TO: Office of the Attorney General ATTN: Initiative Coordinator
1300 I Street Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

From: Oscar A. Braun, Water For Fighting Political Action Committee (WFFPAC.org)
1589 Higgins Canyon Road, Half Moon Bay, CA 94019 Cell: 650-867-5779

Subject: Request for **Title and Summary** for draft of the proposed CA "Unalienable Rights" initiative measure (<http://www.gemworld.com/USA-Unalienable.htm>)

Proposed Initiative Measure

(a) The State of California shall make no law prohibiting the free exercise of the People's exclusive unalienable Right to Life; or abridging the freedom of the People's exclusive unalienable Right to Life, Production, Use and Consumption of air, CO2, water, habitat for humanity and energy generating natural resources.

(b) The State of California shall not levy any taxes, fees, assessments or fines on the Production, Use or Consumption by the People of air, CO2, water, habitat for humanity and energy generating natural resources.

(c) The State of California, upon approval by the electorate, shall repeal the 1970 California Environmental Quality Act (CEQA), California Coastal Act of 1976 (Prop. 20), California Endangered Species Act (CESA) and the 2006 US California Global Warming Act (AB32), and expunge all references and all citations from the repealed laws found within the California Public Resource Code and Health and Safety Code.

(d) The People of California shall have the exclusive unalienable Right to nullify ALL Federal powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the State of California respectively, or to the People.

Why the "We, the People Unalienable Rights" Proposed CA Initiative Measure?

**"[E]QUAL AND INALIENABLE RIGHTS OF ALL MEMBERS OF THE HUMAN
FAMILY IS THE FOUNDATION OF FREEDOM, JUSTICE
AND PEACE IN THE WORLD"**

UNITED NATIONS RESOLUTION, DECEMBER 10, 1948

Today, millions of Californians are experiencing the tyranny that our Founding Fathers feared threatens the American Dream and the Constitutional liberties that assure the future of the dream. Jefferson feared the tyranny of those who fear and distrust the people, and wish to draw all from them into the hands of the higher classes. Madison feared the tyranny of the majority and the

abridgment of the freedom of the people by gradual and silent encroachments of those in power. John Adams feared all men, recognizing that "the only maxim of the free government ought to be to trust no man living with power to endanger the public liberty". President George W. Bush proclaimed in his inaugural address: "The enemies of liberty and our country should make no mistake; Americans remain engaged in the world, by history and by choice, shaping a balance of power that favors freedom. We will defend our allies and our interests. We will show purpose without arrogance. We will meet aggression and bad faith with resolve and strength. And to all nations, we will speak for values that gave our nation birth."

We, the People of the Republic of California, hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed; That whenever any form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their Safety and Happiness.

Therefore, We the People have taken the first step in submitting a ballot initiative that seeks to unshackle the long-suffering People of California from the bleak decades of thoroughly entangling regressive environmental legislations, fraudulent IPCC global warming political science hypothesis, countless bogus endangered species biological opinions, profuse restraining directives by inept unelected bureaucrats and the restrictive court decisions by disconnected jurists that have deprived Californians from their rightful and exclusive unalienable pursuits.

In the 1970s, in the midst of Governor Jerry Brown's first term in office, the People of California were prohibitively taxed in such a manner that they became an endangered People unwelcome even in their own habitat and California at large. Relief through normal entangled legislative means looked decades away, while families, retirees, and businesses fled our Golden State. The People then exerted their plebiscite power and passed Proposition 13; a law that displaced the ineffective efforts of a stalled legislature, a conflicted executive leadership, and finally brought the People of California into a long period of prosperity.

Alas, the People of California now suffer a greater affliction wherein the State has made herself prone to obligations her citizens cannot possibly meet, let alone sustain. The current generation of inept legislators and tired executive branch members once again promote suspicious relief decades hence, even as her farms are blighted and a mass emigration of California's youth, entrepreneurs and brain trust ensues. The People of California once more demand a bypath around her moribund public representatives and jurists. Inasmuch, the Water For Fighting (WFF) Initiative is the lance for this Gordian Knot of post 1969 draconian environmental regulations vexing California; a plebiscite initiative meant to reset the balance of California's pre-1970 public policy goals of seeking the maximum exploitation of our state's natural resources for the

maximum benefit of business and society with her economy and to the truest measure of her 21st Century needs. What will the "fiscal" impact be of this WFF plebiscite initiative? California's families will each save thousands of dollars annually in taxes, fees, assessment and fines on California's habitat for humanity, gasoline, natural gas, and electricity alone. The WFF will stimulate the creation of millions of new private sector jobs in agri-business, energy production, construction and healthcare while allowing the much needed streamlining of our bloated state government bureaucracies.

Since the signing of the Declaration of Independence, our rights as citizens of the United States have been debated, contested, amended, and documented. The Bill of Rights, the first ten amendments of the Constitution, establish our basic civil rights. Later amendments and court decisions have continued the process of defining our human and civil rights.

It is in this grand historical tradition that we, the Proponent(s) submit a draft of the proposed California initiative measure to the Attorney General Jerry Brown with a written request that a Title and Summary of the chief purpose and points of the proposed initiative measure be prepared (Section 9002).

Please find enclosed the **\$200 check # 1636** required at the time of submission of the proposed initiative measure language. The \$200 is placed in a trust fund in the Office of the State Treasurer and is refunded if the initiative measure qualifies for the ballot within two years after the summary has been issued to the proponent(s). If the initiative measure fails to qualify within that period, the money is put into the General Fund of the state. (Section 9004)

At the time the request for title and summary is submitted, the proponent(s) must also execute and submit a signed statement that reads as follows (Section 9608):

I, *Cesar A. Brown*, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot. This statement shall be kept on file at the Attorney General's Office for not less than eight months after the certification of the results of the election for which the petition qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials.



10-0016

We, the People Unalienable Rights Petition

To: Honorable Governor Arnold Schwarzenegger & California Assembly

From: Oscar A. Braun (aka Oscar Knows), Co-founder of the California Watershed Posse

Subject: We the People of California respectfully request that you; as Governor of the State of California and the State Assembly place the enclosed "Water For Fighting" plebiscite initiative on this November ballot to be voted on by the People of California.

We, the People of the Republic of California, hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed; That whenever any form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their Safety and Happiness. Therefore, We the People have taken the first step in submitting a ballot initiative that seeks to unshackle the longsuffering People of California from the bleak decades of thoroughly entangling regressive environmental legislations, fraudulent IPCC global warming political science hypotheses, countless bogus endangered species biological opinions, profuse restraining directives by inept unelected bureaucrats and the restrictive court decisions by disconnected jurists that have deprived Californians from their rightful and exclusive unalienable pursuits.

In the 1970s, in the midst of Governor Jerry Brown's first term in office, the People of California were prohibitively taxed in such a manner that they became an endangered People unwelcome even in their own habitat and California at large. Relief through normal entangled legislative means looked decades away, while families, retirees, and businesses fled our Golden State. The People then exerted their plebiscite power and passed Proposition 13; a law that displaced the ineffective efforts of a stalled legislature, a conflicted executive leadership, and finally brought the People of California into a long period of prosperity.

Alas, the People of California now suffer a greater affliction wherein the State has made herself prone to

obligations her citizens cannot possibly meet, let alone sustain. The current generation of inept legislators and tired executive branch members once again promote suspicious relief decades hence, even as her farms are blighted and a mass emigration of California's youth, entrepreneurs and brain trust ensues. The People of California once more demand a bypath around her moribund public representatives and jurists. Insomuch, the Water For Fighting (WFF) Initiative is the lance for this Gordian Knot of post 1969 draconian environmental regulations vexing California; a plebiscite initiative meant to reset the balance of California's pre-1970 public policy goals of seeking the maximum exploitation of our state's natural resources for the maximum benefit of business and society with her economy and to the truest measure of her 21st Century needs. *What will the "fiscal" impact be of this WFF plebiscite initiative?* California's families will each save thousands of dollars annually in taxes, fees, assessment and fines on California's habitat for humanity, gasoline, natural gas, and electricity alone. The WFF will stimulate the creation of millions of new private sector jobs in agribusiness, energy production, construction and healthcare while allowing the much needed streamlining of our bloated state government bureaucracies.

We, the People Unalienable Rights Petition

(a) The State of California shall make no law prohibiting the free exercise of the People's exclusive unalienable Right to Life; or abridging the freedom of the People's exclusive unalienable Right to Life, Production, Use and Consumption of air, CO₂, water, habitat for humanity and energy generating natural resources.

(b) The State of California shall not levy any taxes, fees, assessments or fines on the Production, Use or Consumption by the People of air, CO₂, water, habitat for humanity and energy generating natural resources.

(c) The State of California, upon approval by the electorate, shall repeal the 1970 California Environmental Quality Act (CEQA), California Coastal Act of 1976 (Prop. 20), California Endangered Species Act (CESA) and the 2006 US California Global Warming Act (AB32), and expunge all references and all citations from the repealed laws found within the California Public Resource Code and Health and Safety Code.

(d) The People of California shall have the exclusive unalienable Right to nullify ALL Federal powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the State of California respectively, or to the People.

-We, the People of California-

Take the opportunity to visit our website and add your voice by signing this petition to Governor Arnold Schwarzenegger & the California Assembly

-The California Watershed Posse-

<http://www.WaterForFighting.org>

Joseph F. Shaughnessy
Communications Director
Water For Fighting, The California Ballot Initiative
<http://waterforfighting.org>
jfshaughnessy@comcast.net
Phone: 408-461-1211

Oscar A. Braun
Executive Director, California Watershed Posse
1589 Higgins Canyon Road
Half Moon Bay, California 94019
<http://waterforfighting.org>
oscar@cwposse.org
Phone: 650-867-5779 Fax: 866-756-3101

obligations her citizens cannot possibly meet, let alone sustain. The current generation of inept legislators and tired executive branch members once again promote suspicious relief decades hence, even as her farms are blighted and a mass emigration of California's youth, entrepreneurs and brain trust ensues. The People of California once more demand a bypath around her moribund public representatives and jurists. Inasmuch, the Water For Fighting (WFF) Initiative is the lance for this Gordian Knot of post 1969 draconian environmental regulations vexing California; a plebiscite initiative meant to reset the balance of California's pre-1970 public policy goals of seeking the maximum exploitation of our state's natural resources for the maximum benefit of business and society with her economy and to the truest measure of her 21st Century needs. *What will the "fiscal" impact be of this WFF plebiscite initiative?* California's families will each save thousands of dollars annually in taxes, fees, assessment and fines on California's habitat for humanity, gasoline, natural gas, and electricity alone. The WFF will stimulate the creation of millions of new private sector jobs in agribusiness, energy production, construction and healthcare while allowing the much needed streamlining of our bloated state government bureaucracies.

We, the People Unalienable Rights Petition

(a) The State of California shall make no law prohibiting the free exercise of the People's exclusive unalienable Right to Life; or abridging the freedom of the People's exclusive unalienable Right to Life, Production, Use and Consumption of air, CO₂, water, habitat for humanity and energy generating natural resources.

(b) The State of California shall not levy any taxes, fees, assessments or fines on the Production, Use or Consumption by the People of air, CO₂, water, habitat for humanity and energy generating natural resources.

(c) The State of California, upon approval by the electorate, shall repeal the 1970 California Environmental Quality Act (CEQA), California Coastal Act of 1976 (Prop. 20), California Endangered Species Act (CESA) and the 2006 US California Global Warming Act (AB32), and expunge all references and all citations from the repealed laws found within the California Public Resource Code and Health and Safety Code.

(d) The People of California shall have the exclusive unalienable Right to nullify ALL Federal powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the State of California respectively, or to the People.

-We, the People of California-

Take the opportunity to visit our website and add your voice by signing this petition to Governor Arnold Schwarzenegger & the California Assembly

-The California Watershed Posse-

<http://www.WaterForFighting.org>

Joseph F. Shaughnessy
Communications Director
Water For Fighting, The California Ballot Initiative
<http://waterforfighting.org>
jfshaughnessy@comcast.net
Phone: 408-461-1211

Oscar A. Braun
Executive Director, California Watershed Posse
1589 Higgins Canyon Road
Half Moon Bay, California 94019
<http://waterforfighting.org>
oscar@waterforfighting.org
Phone: 866-867-5779 Fax: 866-756-3101

UNALIENABLE.

The state of a thing or right which cannot be sold.

Things which are not in commerce, as public roads, are in their nature unalienable. Some things are unalienable, in consequence of particular provisions in the law forbidding their sale or transfer, as pensions granted by the government. The natural rights of life and liberty are UNALIENABLE.

Bouviere's Law Dictionary 1856 Edition

"Unalienable: incapable of being alienated, that is, sold and transferred."

Black's Law Dictionary, Sixth Edition, page 1523:

You can not surrender, sell or transfer unalienable rights, they are a gift from the creator to the individual and can not under any circumstances be surrendered or taken. All individual's have unalienable rights.

Inalienable rights: Rights which are not capable of being surrendered or transferred without the consent of the one possessing such rights. **Morrison v. State, Mo. App., 252 S.W.2d 97, 101.**

You can surrender, sell or transfer inalienable rights if you consent either actually or constructively. Inalienable rights are not inherent in man and can be alienated by government. Persons have inalienable rights. Most state constitutions recognize only inalienable rights.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. **DECLARATION OF INDEPENDENCE**

Men are endowed by their Creator with certain unalienable rights, "life, liberty, and the pursuit of happiness;" and to "secure," not grant or create, these rights, governments are instituted. That property which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the

public may take it upon payment of due compensation. **BUDD v. PEOPLE OF STATE OF NEW YORK, 143 U.S. 517 (1892)**

Among these **unalienable rights**, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give to them their highest enjoyment. The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must therefore be free in this country to all alike upon the same conditions. The right to pursue them, without let or hinderance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright. It has been well said that 'THE PROPERTY WHICH EVERY MAN HAS IN HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY, SO IT IS THE MOST SACRED AND INVOLABLE. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him. . . The right to follow any of the common occupations of life is an inalienable right, it was formulated as such under the phrase 'pursuit of happiness' in the declaration of independence, which commenced with the fundamental proposition that 'all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.' This right is a large ingredient in the civil liberty of the citizen. To deny it to all but a few favored individuals, by investing the latter with a monopoly, is to invade one of the fundamental privileges of the citizen, contrary not only to common right, but, as I think, to the express words of the constitution. It is what no legislature has a right to do; and no contract to that end can be binding on subsequent legislatures. . . **BUTCHERS' UNION CO. v. CRESCENT CITY CO., 111 U.S. 746 (1884)**

"Burlamaqui (Politique, #, . 15) defines **natural liberty** as "the right which nature gives to all mankind of disposing of their persons and property after the manner they may judge most consonant to their happiness, on condition of their acting within the limits of the law of nature, and so as not to interfere with an equal exercise of the same rights by other men;" and therefore it has been justly said, that "absolute rights of individuals may be resolved into the right of personal security--the right of personal liberty--and the right to acquire and enjoy property. These rights have been justly considered and frequently declared by the **people** of this country to be natural, inherent, and **unalienable**." **Potter's Dwarrris, ch. 13, p. 429.**

From these passages it is evident; that the right of acquiring and possessing property, and having it protected, is one of the natural, inherent, and unalienable rights of man. Men have a sense of property: Property is necessary to their

subistence, and correspondent to their natural wants and desires; its security was one of the objects, that induced them to unite in society. No man would become a member of a community, in which he could not enjoy the fruits of his honest labour and industry. . . The constitution expressly declares, that the right of acquiring, possessing, and protecting property is natural, inherent, and **unalienable**. It is a right not ex gratia from the legislature, but ex debito from the constitution. . . Where is the security, where the inviolability of property, if the legislature, by a private act, affecting particular persons ONLY, can take land from one citizen, who acquired it legally, and vest it in another? **VANHORNE'S LESSEE v. DORRANCE, 2 U.S. 304 (1795)**

("[T]he Due Process Clause protects [the **unalienable** liberty recognized in the Declaration of Independence] rather than the particular rights or privileges conferred by specific laws or regulations." **SANDIN v. CONNER, ___ U.S. ___ (1995)**)

In the second article of the Declaration of Rights, which was made part of the late Constitution of Pennsylvania, it is declared: 'That all men have a natural and **unalienable** right to worship Almighty God, according to the dictates of their own consciences and understanding; and that no man ought or of right can be compelled, to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent; nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship; and that no authority can, or ought to be, vested in, or assumed, by any power whatever, that shall, in any case, interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.' (Dec. of Rights, Art. 2.). . . (The Judge then read the 1st. 8th. and 11th articles of the Declaration of Rights; and the 9th. and 46th sections of the Constitution of Pennsylvania. See 1 Vol. Dall. Edit. Penn. Laws p. 55. 6. 60. in the Appendix.) From these passages it is evident; that the right of acquiring and possessing property, and having it protected, is one of the natural, inherent, and **unalienable** rights of man. Men have a sense of property: Property is necessary to their subsistence, and correspondent to their natural wants and desires; its security was one of the objects, that induced them to unite in society. No man would become a member of a community, in which he could not enjoy the fruits of his honest labour and industry. The preservation of property then is a primary object of the social compact, and, by the late Constitution of Pennsylvania, was made a **fundamental law**. . . The constitution expressly declares, that the right of acquiring, possessing, and protecting property is natural, inherent, and **unalienable**. It is a right not ex gratia from the legislature, but ex debito from the constitution. **VANHORNE'S LESSEE v. DORRANCE, 2 U.S. 304 (1795)**

I had thought it self-evident that all men were endowed by their Creator with liberty as one of the cardinal **unalienable** rights. It is that basic freedom which the Due Process Clause protects, rather than the particular rights or privileges conferred by specific laws or regulations. . . It demeans the holding in *Morrissey* - more importantly it demeans the concept of liberty itself - to ascribe to that

holding nothing more than a protection of an interest that the State has created through its own prison regulations. For if the inmate's protected liberty interests are no greater than the State chooses to allow, he is really little more than the slave described in the 19th century cases. I think it clear that even the inmate retains an **unalienable** interest in liberty - at the very minimum the right to be treated with dignity - which the Constitution may never ignore. **MEACHUM v. FANO, 427 U.S. 215 (1976)**

All commissions (regardless of their form, or by whom issued) contain, impliedly, the constitutional reservation, that the people at any time have the right, through their representatives, to alter, reform, or abolish the office, as they may alter, if they choose, the whole form of government. In our magna charta it is proclaimed (2d section of the Bill of Rights, under the 9th Article of the Constitution of Pennsylvania), that 'all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of these ends they have at all times an **unalienable** and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.' It has been well said, by one of the ablest judges of the age, that 'a constitution is not to receive a technical construction, like a common law instrument or a statute. It is to be interpreted so as to carry out the great principles of the government, not to defeat them.' Per Gibson, C. J., in *Commonwealth v. Clark*, 7 Watts & S. (Pa.), 133. **BUTLER v. COM. OF PENNSYLVANIA, 51 U.S. 402 (1850)**

The rights of life and personal liberty are natural rights of man. 'To secure these rights,' says the Declaration of Independence, 'governments are instituted among men, deriving their just powers from the consent of the governed.' The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these '**unalienable rights** with which they were endowed by their Creator.' Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State, than it would be to punish for false imprisonment or murder itself. **U S v. CRUKSHANK, 92 U.S. 542 (1875)**

"... The question presented is not whether the United States has the power to condemn and appropriate this property of the Monongahela Company, for that is conceded, but how much it must pay as compensation therefor. Obviously, this question, as all others which run along the line of the extent of the protection the individual has under the Constitution against the demands of the government, is of importance; for in any society the fulness and sufficiency of the securities which surround the individual in the use and enjoyment of his property constitute one of the most certain tests of the character and value of the government. The first ten amendments to the Constitution, adopted as they were soon after the adoption of the Constitution, are in the nature of a bill of rights, and were adopted in order to quiet the apprehension of many, that without some such declaration of rights the government would assume, and might be held to possess, the power to trespass upon those rights of persons and property which by the Declaration of Independence were affirmed to be **unalienable rights**.

UNITED STATES v. TWIN CITY POWER CO., 350 U.S. 222 (1956)

'By the common law, the king as parens patriae owned the soil under all the waters of all navigable rivers or arms of the sea where the tide regularly ebbs and flows, including the shore or bank to high- water mark. ... He held these rights, not for his own benefit, but for the benefit of his subjects at large, who were entitled to the free use of the sea, and all tide waters, for the purposes of navigation, fishing, etc., subject to such regulations and restrictions as the crown or the Parliament might prescribe. By Magna Charta, and many subsequent statutes, the powers of the king are limited, and he cannot now deprive his subjects of these rights by granting the public navigable waters to individuals. But there can be no doubt of the right of Parliament in England, or the Legislature of this state, to make such grants, when they do not interfere with the vested rights of particular individuals. The right to navigate the public waters of the state and to fish therein, and the right to use the public highways, are all public rights belonging to the people at large. They are not the private unalienable rights of each individual. Hence the Legislature as the representatives of the public may restrict and regulate the exercise of those rights in such manner as may be deemed most beneficial to the public at large: Provided they do not interfere with vested rights which have been granted to individuals.'

APPLEBY v. CITY OF NEW YORK, 271 U.S. 364 (1926)

I Elliot's Debates on the Federal Constitution (1876) 319 et seq. In ratifying the Constitution the following declarations were made: New Hampshire, p. 326, 'XI. Congress shall make no laws touching religion, or to infringe the rights of conscience.' Virginia, p. 327, '... no right, of any denomination, can be cancelled, abridged, restrained, or modified, by the Congress, by the Senate or House of Representatives, acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and that among other essential rights, the liberty of conscience, and of the press, cannot be cancelled, abridged, restrained, or modified, by any authority of the United States.' New York, p. 328, 'That the freedom of the press ought not to be violated or restrained.' After the submission of the amendments, Rhode Island ratified and declared, pp. 334, 335, 'IV. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, and not by force and violence; and therefore all men have a natural, equal, and unalienable right to the exercise of religion according to the dictates of conscience; and that no particular religious sect or society ought to be favored or established, by law, in preference to others. ... XVI. That the people have a right to freedom of speech, and of writing and publishing their sentiments. That freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.'

JONES v. CITY OF OPELIKA, 319 U.S. 105 (1943)

As to the objections made on the other side to our interpretation of the compact, that it impugns the right to the pursuit of happiness, which is inherent in every society of men, and is incompatible with these unalienable rights of sovereignty and of self-government, which every independent State must possess, the answer

is obvious: that no people has a right to pursue its own happiness to the injury of others, for whose protection solemn compacts, like the present, have been made. It is a trite maxim, that man gives up a part of his natural liberty when he enters into civil society, as the price of the blessings of that state: and it may be said, with truth, this liberty is well exchanged for the advantages which flow from law and justice. **GREEN v. BIDDLE**, 21 U.S. 1 (1821)

This court said, in the case of *The Bank of Columbia v. Okely* (4 Wheat. 235), in speaking of a summary proceeding given by the charter of that bank for the collection of its debts: 'It is the remedy, and not the right, and as such we have no doubt of its being subject to the will of Congress. The forms of administering justice, and the duties and powers of courts as incident to the exercise of a branch of sovereign power, must ever be subject to legislative will, and the power over them is **unalienable**, so as to bind subsequent legislatures.' And in *Young v. The Bank of Alexandria* (4 Cranch, 397), Mr. Chief Justice Marshall says: 'There is a difference between those rights on which the validity of the transactions of the corporation depends, which must adhere to those transactions everywhere, and those peculiar remedies which may be bestowed on it. The first are of general obligation; the last, from their nature, can only be exercised in those courts which the power making the grant can regulate.' See also *The Commonwealth v. The Delaware & Hudson Canal Co. et al.*, 43 Pa. St. 227; *State of Maryland v. Northern Central Railroad Co.*, 18 Md. 193; *Colby v. Dennis*, 36 Me. 1; *Gowan v. Penobscot Railroad Co.*, 44 id. 140. **U.S. v. UNION PAC. R. CO.**, 98 U.S. 569 (1878)

It is significant that the guarantee of freedom of speech and press falls between the religious guarantees and the guarantee of the right to petition for redress of grievances in the text of the First Amendment, the principles of which are carried to the States by the Fourteenth Amendment. It partakes of the nature of both, for it is as much a guarantee to individuals of their personal right to make their thoughts public and put them before the community, see Holt, *Of the Liberty of the Press*, in Nelson, *Freedom of the Press from Hamilton to the Warren Court* 18-19, as it is a social necessity required for the "maintenance of our political system and an open society." *Time, Inc. v. Hill*, supra, at 389. It is because of the personal nature

of this right that we have rejected all manner of prior restraint on publication, *Near v. Minnesota*, 283 U.S. 697, despite strong arguments that if the material was unprotected the time of suppression was immaterial. Pound, *Equitable Relief Against Defamation and Injuries to Personality*, 29 Harv. L. Rev. 640. The dissemination of the individual's opinions on matters of public interest is for us, in the historic words of the Declaration of Independence, an "**unalienable right**" that "governments are instituted among men to secure." History shows us that the Founders were not always convinced that unlimited discussion of public issues would be "for the benefit of all of us"¹³ but that they firmly adhered to the proposition that the "true liberty of the press" permitted "every man to publish his opinion." *Respublica v. Oswald*, 1 Dall. 319, 325 (Pa.). **CURTIS PUBLISHING CO. v. BUTTS**, 388 U.S. 130 (1967)

While the "meaning and scope of the First Amendment" must be read "in light of

its history and the evils it was designed forever to suppress," *Everson v. Board of Education*, supra, at 14-15, this Court has also recognized that "this Nation's history has not been one of entirely sanitized separation between Church and State." *Committee for Public Education & Religious Liberty v. Nyquist*, supra, at 760. "The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself." *Abington School District v. Schempp*, 374 U.S. 203, 213 (1963).⁵ The Court properly has noted "an unbroken history of official acknowledgment . . . of the role of religion in American life." *Lynch v. Donnelly*, 465 U.S., at 674, and has recognized that these references to "our religious heritage" are constitutionally acceptable. *Id.*, at 677. **EDWARDS v. AGUILLARD**, 482 U.S. 578 (1987)

When the First Congress was debating the Bill of Rights, it was contended that there was no need separately to assert the right of assembly because it was subsumed in freedom of speech. Mr. Sedgwick of Massachusetts argued that inclusion of "assembly" among the enumerated rights would tend to make the Congress "appear trifling in the eyes of their constituents. . . ." If people freely converse together, they must assemble for that purpose; it is a self-evident, **unalienable right** which the people possess; it is certainly a thing that never would be called in question . . . " 1 *Annals of Cong.* 731 (1789). Since the right existed independent of any written guarantee, Sedgwick went on to argue that if it were the drafting committee's purpose to protect all inherent rights of the people by listing them, "they might have gone into a very lengthy enumeration of rights," but this was unnecessary, he said, "in a Government where none of them were intended to be infringed." *Id.*, at 732. Mr. Page of Virginia responded, however, that at times "such rights have been opposed," and that "people have . . . been prevented from assembling together on their lawful occasions":

"[T]herefore it is well to guard against such stretches of authority, by inserting the privilege in the declaration of rights. If the people could be deprived of the power of assembling under any pretext whatsoever, they might be deprived of every other privilege contained in the clause." *Ibid.* The motion to strike "assembly" was defeated. *Id.*, at 733. **RICHMOND NEWSPAPERS, INC. v. VIRGINIA**, 448 U.S. 555 (1980)

"Gentlemen, I have insisted, at great length, upon the origin of governments, and detailed the authorities which you have heard upon the subject, because I consider it to be not only an essential support, but the very foundation of the liberty of the press. If Mr. Burke be right in his principles of government, I admit that the press, in my sense of its freedom, ought not to be free, nor free in any sense at all; and that all addresses to the people upon the subjects of government, and all speculations of amendment, of what kind or nature soever, are illegal and criminal; since if the people have, with out possible re-call, delegated all their authorities, they have no jurisdiction to act, and therefore none to think or write upon such subjects; and it would be a libel to arraign government or any of its acts, before those who have no jurisdiction to correct them. But on the other hand . . . no legal argument can shake the freedom of the

press in my sense of it, if I am supported in my doctrines concerning the great **unalienable right of the people**, to reform or to change their governments. It is because the liberty of the press resolves itself into this great issue, that it has been in every country the last liberty which subjects have been able to wrest from power. Other liberties are held under governments, but the liberty of opinion keeps governments themselves in due subjection to their duties." 1 Speeches of Lord Erskine 524-525 (J. High ed. 1876). **HERBERT v. LANDO**, 441 U.S. 153 (1979)

The denial of human rights was etched into the American Colonies' first attempts at establishing self-government. When the colonists determined to seek their independence from England, they drafted a unique document cataloguing their grievances against the King and proclaiming as "self-evident" that "all men are created equal" and are endowed "with certain unalienable Rights," including those to "Life, Liberty and the pursuit of Happiness." The self-evident truths and the unalienable rights were intended, however, to apply only to white men. An earlier draft of the Declaration of Independence, submitted by Thomas Jefferson to the Continental Congress, **UNIVERSITY OF CALIFORNIA REGENTS v. BAKKE**, 438 U.S. 265 (1978)

The Declaration of Independence states the American creed: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain **unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness." This ideal was not fully achieved with the adoption of our Constitution because of the hard and tragic reality of Negro slavery. The Constitution of the new Nation, while heralding liberty, in effect declared all men to be free and equal - except black men who were to be neither free nor equal. This inconsistency reflected a fundamental departure from the American creed, a departure which it took a tragic civil war to set right. With the adoption, however, of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution, freedom and equality were guaranteed expressly to all regardless "of race, color, or previous condition of servitude."¹ *United States v. Reese*, 92 U.S. 214, 218. **BELL v. MARYLAND**, 378 U.S. 226 (1964)